Serial No. 10/734,803
Page 6 of 13

R e m a r k s

Claims 1-21 are pending in the application.

Claims 1, 2, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoyama et al. (US 6324166, hereinafter Yokoyama) in view of Conway (US 7054308 B1, hereinafter Conway).

Claims 3-4, 6, 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Yokoyama and further in view of Burst (U.S. Patent No. 7,088,677 B1, hereinafter "Burst").

Claims 11, 12, 13, 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Yokoyama and further in view of Zavalkovsky et al. (U.S. Patent No. 7,027,410 B2, hereinafter "Zavalkovsky").

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Yokoyama and further in view of Zavalkovsky and IETF Network Working Group - RFC2597 (http://www.ietf.org/rfc/rfc2597.txt, hereinafter "IETF RFC2597").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any

602416-1

PAGE 6/13 * RCVD AT 11/15/2007 3:38:02 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/19 * DNIS:2738300 * CSID:+17325309808 * DURATION (mm-ss):02-14

Serial No. 10/734,803
Page 7 of 13

dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejections Under 35 U.S.C. 103

Claims 1, 2, 5, 8 and 9

Claims 1, 2, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoyama et al. (US 6324166, hereinafter Yokoyama) in view of Conway (US 7054308 B1, hereinafter Conway). The rejection is traversed.

Yokoyama discloses a call setup control apparatus in an ATM switch. The call setup control apparatus judges whether or not a fresh call is acceptable by comparing a calculated bandwidth with a link capacity. As disclosed in Yokoyama, the calculated bandwidth is calculated based upon an obtained bandwidth for calls of a particular type and class in a buffer to make a cell loss ratio in the buffer equal to or less than an objective value. (Yokoyama, Abstract).

Yokoyama, however, is devoid of any teaching or suggestion of at least the limitation of "computing a status of utilization of said at least one location based on said polled information and assigning a decision policy to said status," as claimed in Applicants' claim 1.

Rather, Yokoyama merely discloses a call admission control unit which judges whether a fresh call is acceptable or not by comparing the calculated bandwidth with a link capacity. Although Yokoyama discloses two call admission control schemes, Yokoyama does not teach or suggest assigning one of the call admission control schemes. Rather, Yokoyama merely states that two different schemes may be used. Specifically,

602416-1

PAGE 7/13 * RCVD AT 11/15/2007 3:38:02 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/19 * DNIS:2738300 * CSID:+17325309808 * DURATION (mm-ss):02-14

Serial No. 10/734,803
Page 8 of 13

Yokoyama states that "[t]here are two call admission control schemes. One is that the maximum number of calls is not predetermined. In this scheme, the required service rate of each buffer is calculated at each time of a fresh call arrival to check whether the fresh call is acceptable or not. The other one is that the maximum number of calls is preliminarily designed. In the latter scheme, a call admission control is done in such a way that a fresh call is accepted if the number of calls in progress is less than or equal to the designed maximum number otherwise the fresh call is rejected." (Yokoyama, Col. 7, Lines 35-45, Emphasis added).

In other words, Yokoyama merely describes two call admission control schemes which may be used in the Yokoyama system. This can be seen from the cited portion of Yokoyama, which specifically states that where the second scheme is selected the maximum number of calls is preliminary designed. Yokoyama is devoid of any teaching or suggestion of assigning either of the call admission control schemes, much less assigning the call admission control schemes based on a computed status of utilization. As such, Yokoyama fails to teach or suggest Applicants' limitation of "computing a status of utilization of said at least one location based on said polled information and assigning a decision policy to said status," as claimed in Applicants' claim 1.

In the Office Action, the Examiner cites a specific portion of Yokoyama (Col. 7, Lines 19-25), asserting that the cited portion of Yokoyama teaches Applicants' limitation of "assigning a decision policy to said status." (Office Action, Pg. 3). Applicants respectfully disagree. The cited portion of Yokoyama merely describes different functions supported by the call admission control unit which cooperate in deciding whether or not a fresh call can be accepted. Specifically, the cited portion of Yokoyama discloses a "class and type determining" function, "a traffic contract parameter management" function, and a "summed average cell rate calculation" function. The cited portion of Yokoyama is devoid of any teaching or suggestion of any assignment of a decision policy, much less assigning a decision policy based on a computed status of utilization. As such, the cited portion of Yokoyama fails to teach or suggest Applicants' limitation of "computing a status of utilization of said at least one location based on said polled information and assigning a decision policy to said status," as claimed in Applicants' claim 1.

602416-1

Serial No. 10/734,803
Page 9 of 13

Furthermore, Conway fails to bridge the substantial gap between Yokoyama and Applicants' invention.

In general, Conway discloses a method and apparatus for estimating various quality of service (QoS) parameters at PSTN-IP network gateways. As taught in Conway, counters at a PSTN-IP network gateway are used to calculate traffic statistics for the PSTN-IP gateway, and the calculated traffic statistics are stored in a dial-control management information base (MIB) at a PSTN-IP gateway. The dial-control MIB at the PSTN-IP gateway is periodically polled, by a network management system, for the traffic statistics, and the network management system computes estimates of various QoS parameters using the traffic statistics. As taught in Conway, the QoS parameters are "gateway performance parameters." (Conway, Col. 5, Lines 52-53).

As taught in Conway, the QoS parameters estimated by the network management system include carried traffic (Erlands), gateway grade of service (GoS) for the gateway, offered traffic load (Erlangs), and offered traffic arrival rate (calls/sec). (Conway, Col. 5, Lines 57 – 62). More specifically, Conway describes how the estimates of these QoS parameters are computed, stating that "[t]he method comprises the steps of periodically polling the dial-control management information base (MIB) for dial peer traffic statistics, storing the polled data, estimating the carried traffic using the polled data, estimating the grade of service by utilizing the Erlang-B formula in a reverse manner, operating on the estimated carried traffic obtained in the first estimating step, and estimating the offered traffic using the estimated values for the carried traffic and the grade of service obtained in the previous estimating steps." (Conway, Col. 3, Lines 21-29, Emphasis added).

In other words, Conway merely describes a network management system that polls PSTN-IP gateways to obtain traffic statistics, and uses the received traffic statistics to estimate various QoS parameters. Conway is devoid of any teaching or suggestion of assigning any policies based on the results of the QoS estimates. Rather, Conway is merely directed toward how such QoS estimates are computed. As such, Conway fails to teach or suggest at least the limitation of "assessing a priority level of a new voice call requesting to enter the network relative to priorities of existing calls on the network," as claimed in Applicants' claim 1.

602416-1

Serial No. 10/734,803
Page 10 of 13

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, <u>considered as a whole</u>, would have been obvious. Thus, it is impermissible to focus either on the "gist" or "core" of the invention. Moreover, the invention <u>as a whole</u> is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. Yokoyama and Conway, alone or in combination, fail to teach or suggest Applicants' claim 1, <u>as a whole</u>.

As such, independent claim 1 is patentable over Yokoyama and Conway under 35 U.S.C. 103. Independent claim 5 recites relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, independent claim 5 also is patentable over Yokoyama and Conway under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Conway.

Therefore, Applicants' claims 1, 2, 5, 8 and 9 are patentable over Yokoyama and Conway under 35 U.S.C. 103. The Examiner is respectfully requested to withdraw the rejection.

Claims 3-4, 6, 7 and 10

Claims 3-4, 6, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Yokoyama and further in view of Burst. The rejection is traversed.

This ground of rejection applies only to dependent claims, and is predicated on the validity of the rejection under 35 U.S.C. 103 given Conway in view of Yokoyama. As discussed above, Conway and Yokoyama alone or in combination fail to teach or suggest Applicants' invention as a whole. Burst does not teach or suggest the missing limitations. Accordingly, the combination of Conway, Yokoyama and Burst, in a rejection of dependent claims, would still result in a gap in the combined teachings in regards to the independent claim.

602416-1

Serial No. 10/734,803
Page 11 of 13

Therefore, Applicants' claims 3-4, 6, 7 and 10 are allowable over Conway, Yokoyama and Burst under 35 U.S.C. 103. The Examiner is respectfully requested to withdraw the rejection.

Claims 11, 12, 13 and 14-18

Claims 11, 12, 13 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Yokoyama and further in view of Zavalkovsky. The rejection is traversed.

This ground of rejection applies only to dependent claims, and is predicated on the validity of the rejection under 35 U.S.C. 103 given Conway in view of Yokoyama. As discussed above, Conway and Yokoyama alone or in combination fail to teach or suggest Applicants' invention as a whole. Zavalkovsky does not teach or suggest the missing limitations. Accordingly, the combination of Conway, Yokoyama and Zavalkovsky, in a rejection of dependent claims, would still result in a gap in the combined teachings in regards to the independent claim.

Therefore, Applicants' claims 11, 12, 13 and 14-18 are allowable over Conway, Yokoyama and Zavalkovsky under 35 U.S.C. 103. The Examiner is respectfully requested to withdraw the rejection.

Claims 19-21

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conway in view of Yokoyama and further in view of Zavalkovsky and IETF RFC2597. The rejection is traversed.

This ground of rejection applies only to dependent claims, and is predicated on the validity of the rejection under 35 U.S.C. 103 given Conway in view of Yokoyama. As discussed above, Conway and Yokoyama alone or in combination fail to teach or suggest Applicants' invention as a whole. Zavalkovsky and IETF RFC2597 alone or in combination do not teach or suggest the missing limitations. Accordingly, the combination of Conway, Yokoyama, Zavalkovsky and IETF RFC2597 in a rejection of dependent claims, would still result in a gap in the combined teachings in regards to the independent claim.

602416-1

Serial No. 10/734,803
Page 12 of 13

Therefore, Applicants' claims 19-21 are allowable over Conway, Yokoyama, Zavalkovsky and IETF RFC2597 under 35 U.S.C. 103. The Examiner is respectfully requested to withdraw the rejection.

Secondary References

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

602416-1

Serial No. 10/734,803
Page 13 of 13

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Michael Bentley or Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: __11/14/07__

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602416-1